

By MONDAY
1/15
P.M.

D-NOTE

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RM
NOT
PUN

GEN. CAT.

1 **AN ACT to repeal** 448.52 (3); **to renumber and amend** 448.50 (4), 448.54 (2) and
2 448.56 (1); **to amend** 48.981 (2), 146.81 (1) (dg), 146.997 (1) (d) 4., 155.01 (7),
3 252.14 (1) (ar) 4e., 448.51 (1), 448.52 (4), 448.54 (1), 448.54 (3), 448.55 (2),
4 448.57 (2) (b), 448.57 (2) (e), 448.57 (2) (f), 448.57 (2) (g) and 450.10 (3) (a) 5.;
5 **to repeal and recreate** 448.56 (1) (title); and **to create** 440.08 (2) (a) 57m.,
6 448.50 (1m), 448.50 (4) (a) to (d), 448.50 (5), 448.50 (6), 448.50 (7), 448.51 (1e),
7 448.51 (1m), 448.51 (1s), 448.527, 448.53 (1) (f), 448.535, 448.54 (2) (b), 448.55
8 (3), 448.56 (1) (b), 448.56 (4), 448.56 (5), 448.56 (6), 448.565, 448.57 (2) (am),
9 448.57 (2) (bm), 448.57 (2) (fm), 448.57 (3), 448.57 (4) and 448.57 (5) of the
10 statutes; **relating to:** licensing of physical therapists and physical ~~therapy~~
11 assistants and granting rule-making authority.

therapist

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.981 (2) of the statutes is amended to read:

2 48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical
3 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or
4 mental health professional, social worker, marriage and family therapist,
5 professional counselor, public assistance worker, including a financial and
6 employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or
7 counselor, mediator under s. 767.11, child care worker in a day care center or child
8 caring institution, day care provider, alcohol or other drug abuse counselor, member
9 of the treatment staff employed by or working under contract with a county
10 department under s. 46.23, 51.42, or 51.437, physical therapist, ~~physical therapy~~ ^{therapist}
11 assistant, occupational therapist, dietitian, speech-language pathologist,
12 audiologist, emergency medical technician, first responder or police or law
13 enforcement officer having reasonable cause to suspect that a child seen in the course
14 of professional duties has been abused or neglected or having reason to believe that
15 a child seen in the course of professional duties has been threatened with abuse or
16 neglect and that abuse or neglect of the child will occur shall, except as provided
17 under sub. (2m), report as provided in sub. (3). A court-appointed special advocate
18 having reasonable cause to suspect that a child seen in the course of the
19 court-appointed special advocate's activities under s. 48.236 (3) has been abused or
20 neglected or having reason to believe that a child seen in the course of those activities
21 has been threatened with abuse and neglect and that abuse or neglect of the child

1 will occur shall, except as provided in sub. (2m), report as provided in sub. (3). Any
2 other person, including an attorney, having reason to suspect that a child has been
3 abused or neglected or reason to believe that a child has been threatened with abuse
4 or neglect and that abuse or neglect of the child will occur may make such a report.
5 Any person, including an attorney, having reason to suspect that an unborn child has
6 been abused or reason to believe that an unborn child is at substantial risk of abuse
7 may report as provided in sub. (3). No person making a report under this subsection
8 may be discharged from employment for so doing.

9 **SECTION 2.** 146.81 (1) (dg) of the statutes is amended to read:

10 146.81 (1) (dg) A physical therapist ~~or physical therapy~~^{therapist}/assistant licensed
11 under subch. III of ch. 448.

12 **SECTION 3.** 146.997 (1) (d) 4. of the statutes is amended to read:

13 146.997 (1) (d) 4. A physician, podiatrist ~~or~~, physical therapist, or physical
14 ~~therapy~~^{therapist}/assistant licensed under ch. 448.

15 **SECTION 4.** 155.01 (7) of the statutes is amended to read:

16 155.01 (7) "Health care provider" means a nurse licensed or permitted under
17 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
18 physician, physician assistant, podiatrist, physical therapist, physical^{therapist}~~therapy~~
19 ~~assistant~~, occupational therapist, or occupational therapy assistant licensed under
20 ch. 448, a person practicing Christian Science treatment, an optometrist licensed
21 under ch. 449, a psychologist licensed under ch. 455, a partnership thereof, a
22 corporation or limited liability company thereof that provides health care services,
23 an operational cooperative sickness care plan organized under ss. 185.981 to 185.985
24 that directly provides services through salaried employees in its own facility, or a
25 home health agency, as defined in s. 50.49 (1) (a).

INSERT 4-8
50 p. 5, l. 8

SECTION 5. 252.14 (1) (ar) 4e. of the statutes is amended to read:

252.14 (1) (ar) 4e. A physical therapist or physical ~~therapy~~^{therapist}/assistant licensed under subch. III of ch. 448.

SECTION 6. 440.08 (2) (a) 57m. of the statutes is created to read:

440.08 (2) (a) 57m. Physical ~~therapy~~^{therapist}/assistant: November 1 of each odd-numbered year; \$44.

SECTION 7. 448.50 (1m) of the statutes is created to read:

448.50 (1m) "Business entity" has the meaning given in s. 452.01 (3j).

SECTION 8. 448.50 (4) of the statutes is renumbered 448.50 (4) (intro.) and amended to read:

448.50 (4) (intro.) "Physical therapy" means that branch or system of treating the sick which is limited to therapeutic exercises with or without assistive devices, and physical measures including heat and cold, air, water, light, sound, electricity and massage, and physical testing and evaluation. The use of roentgen rays and radium for any purpose, and the use of electricity for surgical purposes including cauterization, are not part of physical therapy. that includes each of the following:

SECTION 9. 448.50 (4) (a) to (d) of the statutes are created to read:

448.50 (4) (a) Examining, evaluating, or testing individuals with mechanical, physiological, or developmental impairments, functional limitations, disabilities, or other movement-related or health conditions, in order to determine a diagnosis, prognosis, or plan of therapeutic intervention or to assess the ongoing effects of intervention. In this paragraph, "testing" means using standardized methods or techniques for gathering data about a patient, including electrodiagnostic or electrophysiologic tests.

(b) Alleviating impairments or functional limitations by instructing patients or designing, implementing, or modifying therapeutic interventions.

(c) Reducing the risk of injury, impairment, functional limitation, or disability, including by promoting or maintaining fitness, health, or quality of life in all age populations.

(d) Engaging in administration, consultation, or research that is related to any activity specified in pars. (a) to (c).

SECTION 10. 448.50 ^{3m ✓} (5) of the statutes is created to read:

448.50 ^{3m} (5) "Physical ^{therapist} ~~therapy~~ assistant" means an individual who holds a license as a physical ^{therapist} ~~therapy~~ assistant granted by the affiliated credentialing board.

SECTION 11. 448.50 ⁵ (6) of the statutes is created to read:

448.50 ⁵ (6) "Sexual misconduct with a patient" means any of the following:

(a) Engaging in or soliciting a consensual or nonconsensual sexual relationship with a patient.

(b) Making sexual advances toward, requesting sexual favors from, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

(c) Intentionally viewing a completely or partially disrobed patient during the course of treatment if the viewing is not related to diagnosis or treatment.

SECTION 12. 448.50 ⁶ (7) of the statutes is created to read:

448.50 ⁶ (7) "Therapeutic intervention" means the purposeful and skilled interaction between a physical therapist, patient, and, if appropriate, individuals involved in the patient's care, using physical therapy procedures or techniques that are intended to produce changes in the patient's condition and that are consistent with diagnosis and prognosis.

SECTION 13. 448.51 (1) of the statutes is amended to read:

1 448.51 (1) Except as provided in s. 448.52, no person may practice physical
2 therapy or ~~designate himself or herself as a physical therapist or use or assume the~~
3 ~~title "physical therapist" or "physiotherapist" or "physical therapy technician" or~~
4 ~~append to the person's name the letters "P.T.", "P.T.T." or "R.P.T." or any other title,~~
5 ~~letters or designation which represents or may tend to represent the person as a~~
6 ~~physical therapist unless the person is licensed under this subchapter.~~ *as a physical therapist*

7 SECTION 14. 448.51 (1e) of the statutes is created to read:

8 448.51 (1e) No person may designate himself or herself as a physical therapist
9 or use or assume the title "physical therapist," "physiotherapist," "physical therapy
10 technician," "licensed physical therapist," ~~or~~ "registered physical therapist," or
11 append to the person's name the letters "P.T.," "P.T.T.," "L.P.T.," ~~or~~ "R.P.T.," or any
12 other title, letters, or designation which represents or may tend to represent the
13 person as a physical therapist, unless the person is licensed *as a physical therapist* under this subchapter.

14 SECTION 15. 448.51 (1m) of the statutes is created to read:

15 448.51 (1m) No business entity may use, in connection with the name of the
16 business entity, a title specified in sub. (1e), append to the business entity's name the
17 letters specified in sub. (1e), or advertise or represent that it provides physical
18 therapy services, including billing of services that are labeled as physical therapy,
19 unless the physical therapy services provided by the business entity are provided by
20 or under the direction of a physical therapist.

21 SECTION 16. 448.51 (1s) of the statutes is created to read:

22 448.51 (1s) No person may designate himself or herself as a physical ~~therapy~~ *therapist*
23 assistant, use or assume the title "physical ~~therapy~~ *therapist* assistant," or append to the
24 person's name the letters "P.T.A." or any other title, letters, or designation that

INSERT 6-10

"M.P.T." "M.S.P.T." or "D.P.T."

INSERT 7-2 ✓

1 represents or may tend to represent the person as a physical ^{therapist}therapy assistant unless
2 the person is licensed as a physical ^{therapist}therapy assistant under this subchapter.

3 SECTION 17. 448.52 (3) of the statutes is repealed.

4 SECTION 18. 448.52 (4) of the statutes is amended to read:

5 448.52 (4) A physical ~~therapy~~ ^{therapist} or physical ~~therapy~~ ^{therapist} assistant student practicing
6 physical therapy ^{INSERT 7-6} within the scope of the student's education or training.

7 SECTION 19. 448.527 of the statutes is created to read:

8 **448.527 Code of ethics.** The affiliated credentialing board shall promulgate
9 rules establishing a code of ethics governing the professional conduct of physical
10 therapists and physical ~~therapy~~ ^{therapist} assistants.

11 SECTION 20. 448.53 (1) (f) of the statutes is created to read:

12 448.53 (1) (f) If the person was educated at a physical therapy school that is not
13 in the United States, the person satisfies any additional requirements for
14 demonstrating competence to practice physical therapy that the affiliated
15 credentialing board may establish by rule.

16 SECTION 21. 448.535 of the statutes is created to read:

17 **448.535 Licensure of physical ~~therapy~~ ^{therapist} assistants.** The affiliated
18 credentialing board shall grant a license as a physical ~~therapy~~ ^{therapist} assistant to a person
19 who does all of the following:

20 (1) Submits an application for the license to the department on a form provided
21 by the department.

22 (2) Pays the fee specified in s. 440.05 (1).

23 (3) Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory
24 to the affiliated credentialing board that the applicant does not have an arrest or
25 conviction record.

(4) Submits evidence satisfactory to the affiliated credentialing board that the applicant is a graduate of a physical ~~therapy~~^{therapist} assistant educational program accredited by an agency that is approved by the affiliated credentialing board.

(5) Passes an examination under s. 448.54.

SECTION 22. 448.54 (1) of the statutes is amended to read:

448.54 (1) The affiliated credentialing board shall conduct or arrange for examinations for physical therapist and physical ~~therapy~~^{therapist} assistant licensure at least semiannually and at times and places determined by the affiliated credentialing board.

SECTION 23. 448.54 (2) of the statutes is renumbered 448.54 (2) (a) and amended to read:

448.54 (2) (a) Except as provided in sub. (3), examinations for physical therapist licensure shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in subjects substantially related to the practice of physical therapy.

SECTION 24. 448.54 (2) (b) of the statutes is created to read:

448.54 (2) (b) Examinations for physical ~~therapy~~^{therapist} assistant licensure shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in the technical application of physical therapy services.

SECTION 25. 448.54 (3) of the statutes is amended to read:

448.54 (3) The Notwithstanding s. 448.53 (1) (f), the affiliated credentialing board may not require an applicant for physical therapist licensure to take an oral examination or an examination to test proficiency in the English language for the sole reason that the applicant was educated at a physical therapy school that is not

1 in the United States if the applicant establishes, to the satisfaction of the affiliated
2 credentialing board, that he or she satisfies the requirements under s. 448.53 (3).

3 **SECTION 26.** 448.55 (2) of the statutes is amended to read:

4 448.55 (2) The renewal dates for licenses granted under this subchapter, other
5 than temporary licenses granted under rules promulgated under s. 448.53 (2), are
6 specified under s. 440.08 (2) (a). Renewal applications shall be submitted to the
7 department on a form provided by the department and shall include the renewal fee
8 specified in s. 440.08 (2) (a) and proof of compliance with the requirements
9 established in any rules promulgated under sub. (3).

10 **SECTION 27.** 448.55 (3) of the statutes is created to read:

11 448.55 (3) The affiliated credentialing board ~~may~~^{shall} promulgate rules that
12 require an applicant for renewal of a license to demonstrate continued competence
13 as a physical therapist or physical ~~therapist~~^{therapist} assistant. ~~Rules promulgated under this~~
14 ~~subsection may require an applicant to complete continuing education programs or~~
15 ~~courses of study to qualify for renewal of a license.~~

16 **SECTION 28.** 448.56 (1) (title) of the statutes is repealed and recreated to read:

17 448.56 (1) (title) REFERRALS.

18 **SECTION 29.** 448.56 (1) of the statutes is renumbered 448.56 (1) (a) and
19 amended to read:

20 448.56 (1) (a) Except as provided in this subsection paragraph and s. 448.52,
21 a person may practice physical therapy only upon the written referral of a physician,
22 chiropractor, dentist, or podiatrist. Written referral is not required if a physical
23 therapist provides services in schools to children with disabilities, as defined in s.
24 115.76 (5), pursuant to rules promulgated by the department of public instruction;
25 provides services as part of a home health care agency; provides services to a patient

1 in a nursing home pursuant to the patient's plan of care; provides services related
2 to athletic activities, conditioning, or injury prevention; or provides services to an
3 individual for a previously diagnosed medical condition after informing the
4 individual's physician, chiropractor, dentist, or podiatrist who made the diagnosis.
5 The affiliated credentialing board may promulgate rules establishing additional
6 services that are excepted from the written referral requirements of this subsection
7 paragraph.

8 **SECTION 30.** 448.56 (1) (b) of the statutes is created to read:

9 448.56 (1) (b) A physical therapist shall refer a patient to an appropriate health
10 care practitioner if the physical therapist has reasonable cause to believe that
11 physical therapy is contraindicated or that symptoms or conditions are present that
12 require services beyond the scope of the practice of physical therapy.

13 **SECTION 31.** 448.56 (4) of the statutes is created to read:

14 448.56 (4) **RESPONSIBILITY.** A physical therapist is responsible for managing all
15 aspects of the physical therapy care of each patient under his or her care including
16 any physical therapy care provided by a physical therapist assistant.

17 **SECTION 32.** 448.56 (5) of the statutes is created to read:

18 448.56 (5) **PATIENT RECORDS.** A physical therapist shall create and maintain a
19 patient record for every patient the physical therapist examines or treats. A patient
20 record created and maintained under this subsection shall contain complete and
21 comprehensive health care information, as defined by the affiliated credentialing
22 board by rule. The affiliated credentialing board shall promulgate rules establishing
23 requirements and procedures for the retention of patient records.

24 **SECTION 33.** 448.56 (6) of the statutes is created to read:

INSERT 11-9

THERAPIST

1 448.56 (6) PHYSICAL ~~THERAPY~~ ASSISTANTS. A physical ~~therapy~~^{therapist +} assistant may
2 assist in the practice of physical therapy only under the direction and ^{general} supervision of
3 a physical therapist ^{INSERT 11-3} who is present on the premises of the facility at which the
4 assistance is rendered and is immediately available to the physical ~~therapy~~^{therapist +}
5 assistant.

6 SECTION 34. 448.565 of the statutes is created to read:

7 448.565 Complaints. The affiliated credentialing board shall promulgate
8 rules establishing procedures and requirements for filing complaints against
9 licensees and shall publicize the procedures and requirements as widely as possible.

10 SECTION 35. 448.57 (2) (am) of the statutes is created to read:

11 448.57 (2) (am) Interfered with an investigation or disciplinary proceeding by
12 using threats, harassment, or intentional misrepresentation of facts.

13 SECTION 36. 448.57 (2) (b) of the statutes is amended to read:

14 448.57 (2) (b) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an
15 offense the circumstances of which substantially relate to the practice of physical
16 therapy or assisting in the practice of physical therapy.

17 SECTION 37. 448.57 (2) (bm) of the statutes is created to read:

18 448.57 (2) (bm) Been adjudicated mentally incompetent by a court.

19 SECTION 38. 448.57 (2) (e) of the statutes is amended to read:

20 448.57 (2) (e) Subject to ss. 111.321, 111.322, and 111.34, practiced or assisted
21 in the practice of physical therapy while the applicant's or licensee's ability to
22 practice or assist was impaired by alcohol or other drugs.

23 SECTION 39. 448.57 (2) (f) of the statutes is amended to read:

24 448.57 (2) (f) Engaged in unprofessional or unethical conduct in violation of the
25 code of ethics established in the rules promulgated under s. 448.527.

1 **SECTION 40.** 448.57 (2) (fm) of the statutes is created to read:

2 448.57 (2) (fm) Engaged in sexual misconduct with a patient.

3 **SECTION 41.** 448.57 (2) (g) of the statutes is amended to read:

4 448.57 (2) (g) Engaged in conduct while practicing or assisting in the practice
5 of physical therapy which evidences a lack of knowledge or ability to apply
6 professional principles or skills.

7 **SECTION 42.** 448.57 (3) of the statutes is created to read:

8 448.57 (3) (a) A licensee may voluntarily surrender his or her license to the
9 affiliated credentialing board, which may refuse to accept the surrender if the
10 affiliated credentialing board has received allegations of unprofessional conduct
11 against the licensee. The affiliated credentialing board may negotiate stipulations
12 in consideration for accepting the surrender of licenses.

13 (b) The affiliated credentialing board may restore a license that has been
14 voluntarily surrendered under par. (a) on such terms and conditions as it considers
15 appropriate.

16 **SECTION 43.** 448.57 (4) of the statutes is created to read:

17 448.57 (4) The affiliated credentialing board shall prepare and disseminate to
18 the public an annual report that describes final disciplinary action taken against
19 licensees during the preceding year.

20 **SECTION 44.** 448.57 (5) of the statutes is created to read:

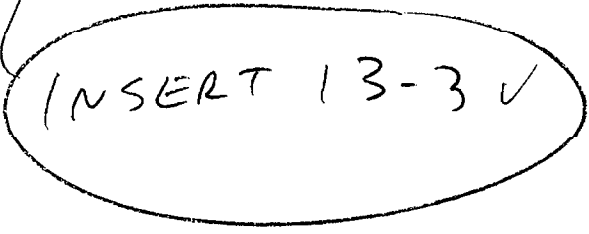
21 448.57 (5) The affiliated credentialing board may report final disciplinary
22 action taken against a licensee to any national database that includes information
23 about disciplinary action taken against health care professionals.

24 **SECTION 45.** 450.10 (3) (a) 5. of the statutes is amended to read:

1 450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical
2 therapist, physical ~~therapy~~ ^{therapist} assistant, occupational therapist, or occupational
3 therapy assistant licensed under ch. 448.

4

(END)



INSERT 13-3 ✓

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

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MDK.....

INSERT 6-10:

“master of physical therapy”, “master of science in physical therapy”, or “doctorate in physical therapy”

INSERT 7-2:

SECTION 1. 448.51 (2) (a) of the statutes is amended to read:

448.51 (2) (a) In this subsection, “advertisement” includes advertisements that appear on outdoor signs, in print or electronic media, and in material mailed to a person other than a patient, client, or prospective patient or client who has requested the material.

History: 1993 a. 107; 1995 a. 166.

SECTION 2. 448.51 (2) (b) of the statutes is amended to read:

448.51 (2) (b) Except as provided in par. (c), no person may claim to render physical therapy or physiotherapy services unless the person is licensed as a physical therapist under this subchapter.

History: 1993 a. 107; 1995 a. 166.

INSERT 7-5:

assisting a physical therapist in the practice of

INSERT 7-6:

or a physical therapist assistant student assisting a physical therapist in performing physical therapy procedures and related tasks, if the assistance is

INSERT 11-3:

The affiliated credentialing board shall promulgate rules defining “general supervision” for purposes of this subsection.

INSERT 11-9:

SECTION 3. 448.567 of the statutes is created to read:

INSERT 13-3:

(1) This act takes effect on the first day of the 7th month beginning after publication.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0750/P2dn

MDK: *king*

Senator Chvala:

Please review this version of the draft, which is based on instructions received from Ron Hermes, very carefully to make sure that it achieves your intent. In particular, please note the following:

1. This draft does not require a physical therapist or physical therapist assistant to use the initials "P. T." or "P. T. A." in connection with the person's name or place of business. I understand that you want to create a consistent nationwide standard, but the draft accomplishes that purpose by allowing only persons who are licensed to use the designated initials. The same is true for nurses, physicians, and doctors of osteopathy. Under current law, a registered nurse, physician or osteopath is not required to append the initials "R. N.," "M. D.," or "D. O." to his or her name. Instead, only a registered nurse, physician, or osteopath is allowed to do so. See ss. 441.06 (2) and 448.03 (3) (a) and (b), stats. In addition, the command to require using the initials in connection with a name is incredibly broad. Do you really want to require use of the initials every time that a physical therapist uses his or her name? Perhaps your concerns may be satisfied by requiring the affiliated credentialing board to promulgate rules that specify the work-related instances in which the initials must be used. X

2. I understand that you want to prohibit persons, such as athletic trainers, from claiming to provide physical therapy. This is already prohibited under current law. Under s. 448.51 (2) (b), stats., no person, except, under certain conditions, a chiropractor, may claim to render physical therapy or physiotherapy services without a physical therapist license. Therefore, I don't think any changes are necessary to accomplish your purpose. Nevertheless, if you have concerns about athletic trainers, you may want to consider adding language that specifically prohibits an athletic trainer who is licensed under subch. VI of ch. 448 from claiming to render physical therapy. Alternatively, if the problem is that athletic trainers or others are arguing that they are practicing physical therapy, but not treating the sick, you may want to consider deleting from the definition of physical therapy the component that it is a branch or system of treating the sick. However, because it seems to be such a basic component, I am reluctant to eliminate it without further guidance from you. ✓

3. Proposed s. 448.56 (6) is revised to require that a physical therapist assistant assist under the "general supervision" of a physical therapist. Note also that, as under

current law, the affiliated credentialing board must promulgate rules defining "general supervision". Is this okay?

4. Proposed s. 448.55 (3) requires, instead of allows, the affiliated credentialing board to promulgate rules on demonstrating continuing competence. You may also want to consider adding a deadline on submitting the rules to the legislative council staff, or requiring the affiliated credentialing board to promulgate emergency rules that may go into effect while rulemaking is proceeding on the proposed rules.

5. I included the additional requested initials in proposed s. 448.51 (1e), as well as the titles for which the initials stand. Without the titles, the draft would be confusing because I don't think the average reader would know what the initials mean.

6. Please advise whether you want to add any physical therapist assistants to the affiliated credentialing board. (The instructions indicate a need to do more research on this point.)

7. I did not delete "only" from s. 448.46 (1), stats., because I don't know what you are trying to accomplish. If you want to delete "only", then you should instead repeal the provision in its entirety. By deleting "only", the provision allows, but does not require, a written referral for a person to practice. Therefore, a person could also practice without a written referral, and the rest of the provision doesn't make any sense.

8. It would create confusion to refer to clients, in addition to patients, in the following provisions, so I have not referred to clients in them: ss. 448.50 (4) (a), which defines "testing" to include gathering information about a patient, 448.50 (4) (b), which refers to instructing patients, 448.50 (5) and 448.57 (2) (fm), which prohibit sexual misconduct with a patient, 448.56 (1) (a), which refers to providing services to a patient in a nursing home pursuant to the patient's plan of care, 448.56 (1) (b), which refers to referring a patient to an appropriate health care practitioner if physical therapy is contraindicated, etc., 448.56 (4), which makes a physical therapist responsible for managing all aspects of the physical therapy care of each patient, 448.56 (5), which requires a physical therapist to maintain records for each patient examined or treated. Unless you can explain why, it doesn't make sense to me to also refer to clients in the foregoing provisions.

9. I didn't refer to clients in s. 448.51 (2) (c) 2. b., because it refers to patients and prospective patients of chiropractors.

10. It isn't necessary to refer to clients in s. 448.50 (7), which refers to individuals involved in a patient's care, which I assume refers to the same type of individuals as clients.

11. I ~~did add~~ a reference to "client" in s. 448.51 (2) (a), which is amended to exclude from the definition of "advertisement" material mailed to a patient, client, or prospective patient or client.

12. Other than the references described above, there are no other references to patients in subch. III of ch. 448.

13. Please review the "grandfather" provision in the nonstatutory section of the draft. Under this provision, a person who has practiced for 2 out of the last 5 years as a

physical therapist assistant can get a license without satisfying the arrest or conviction requirement and without passing an examination. (I'm assuming that the education requirement under the draft is comparable to that under current law.) Of course, you can structure this provision differently, depending on your intent. What I need to know is: 1) what requirements do you want to waive for people who are currently acting as physical therapist assistants; and 2) what evidence must they submit to show that they are currently acting as physical therapist assistants? For example, how long must they have acted as a physical therapist assistant?

14. I think a delayed effective date is necessary if you are going to use a grandfather provision. The reason is that you need some lag time to allow people to come into compliance with the draft's new requirements. Otherwise, you could potentially immediately prohibit a person from earning a livelihood as a physical therapist assistant. Please let me know whether the delayed effective date is okay.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0750/P2dn
MDK:kmg:kjf

January 14, 2001

Senator Chvala:

Please review this version of the draft, which is based on instructions received from Ron Hermes, very carefully to make sure that it achieves your intent. In particular, please note the following:

1. This draft does not require a physical therapist or physical therapist assistant to use the initials "P.T." or "P.T.A." in connection with the person's name or place of business. I understand that you want to create a consistent nationwide standard, but the draft accomplishes that purpose by allowing only persons who are licensed to use the designated initials. The same is true for nurses, physicians, and doctors of osteopathy. Under current law, a registered nurse, physician or osteopath is not required to append the initials "R.N.," "M.D.," or "D.O." to his or her name. Instead, only a registered nurse, physician, or osteopath is allowed to do so. See ss. 441.06 (2) and 448.03 (3) (a) and (b), stats. In addition, the command to require using the initials in connection with a name is incredibly broad. Do you really want to require use of the initials every time that a physical therapist uses his or her name? Perhaps your concerns may be satisfied by requiring the affiliated credentialing board to promulgate rules that specify the work-related instances in which the initials must be used.
2. I understand that you want to prohibit persons, such as athletic trainers, from claiming to provide physical therapy. This is already prohibited under current law. Under s. 448.51 (2) (b), stats., no person, except, under certain conditions, a chiropractor, may claim to render physical therapy or physiotherapy services without a physical therapist license. Therefore, I don't think any changes are necessary to accomplish your purpose. Nevertheless, if you have concerns about athletic trainers, you may want to consider adding language that specifically prohibits an athletic trainer who is licensed under subch. VI of ch. 448 from claiming to render physical therapy. Alternatively, if the problem is that athletic trainers or others are arguing that they are practicing physical therapy, but not treating the sick, you may want to consider deleting from the definition of physical therapy the component that it is a branch or system of treating the sick. However, because it seems to be such a basic component, I am reluctant to eliminate it without further guidance from you.
3. Proposed s. 448.56 (6) is revised to require that a physical therapist assistant assist under the "general supervision" of a physical therapist. Note also that, as under

current law, the affiliated credentialing board must promulgate rules defining "general supervision." Is this okay?

4. Proposed s. 448.55 (3) requires, instead of allows, the affiliated credentialing board to promulgate rules on demonstrating continuing competence. You may also want to consider adding a deadline on submitting the rules to the legislative council staff, or requiring the affiliated credentialing board to promulgate emergency rules that may go into effect while rule making is proceeding on the proposed rules.

5. I included the additional requested initials in proposed s. 448.51 (1e), as well as the titles for which the initials stand. Without the titles, the draft would be confusing because I don't think the average reader would know what the initials mean.

6. Please advise whether you want to add any physical therapist assistants to the affiliated credentialing board. (The instructions indicate a need to do more research on this point.)

7. I did not delete "only" from s. 448.56 (1), stats., because I don't know what you are trying to accomplish. If you want to delete "only," then you should instead repeal the provision in its entirety. By deleting "only," the provision allows, but does not require, a written referral for a person to practice. Therefore, a person could also practice without a written referral, and the rest of the provision doesn't make any sense.

8. It would create confusion to refer to clients, in addition to patients, in the following provisions, so I have not referred to clients in them: s. 448.50 (4) (a), which defines "testing" to include gathering information about a patient, s. 448.50 (4) (b), which refers to instructing patients, ss. 448.50 (5) and 448.57 (2) (fm), which prohibit sexual misconduct with a patient, s. 448.56 (1) (a), which refers to providing services to a patient in a nursing home pursuant to the patient's plan of care, s. 448.56 (1) (b), which refers to referring a patient to an appropriate health care practitioner if physical therapy is contraindicated, etc., s. 448.56 (4), which makes a physical therapist responsible for managing all aspects of the physical therapy care of each patient, s. 448.56 (5), which requires a physical therapist to maintain records for each patient examined or treated. Unless you can explain why, it doesn't make sense to me to also refer to clients in the foregoing provisions.

9. I didn't refer to clients in s. 448.51 (2) (c) 2. b., because it refers to patients and prospective patients of chiropractors.

10. It isn't necessary to refer to clients in s. 448.50 (6), which refers to individuals involved in a patient's care, which I assume refers to the same type of individuals as clients.

11. I did add a reference to "client" in s. 448.51 (2) (a), which is amended to exclude from the definition of "advertisement" material mailed to a patient, client, or prospective patient or client.

12. Other than the references described above, there are no other references to patients in subch. III of ch. 448.

13. Please review the "grandfather" provision in the nonstatutory section of the draft. Under this provision, a person who has practiced for 2 out of the last 5 years as a

physical therapist assistant can get a license without satisfying the arrest or conviction requirement and without passing an examination. (I'm assuming that the education requirement under the draft is comparable to that under current law.) Of course, you can structure this provision differently, depending on your intent. What I need to know is: 1) what requirements do you want to waive for people who are currently acting as physical therapist assistants; and 2) what evidence must they submit to show that they are currently acting as physical therapist assistants? For example, how long must they have acted as a physical therapist assistant?

14. I think a delayed effective date is necessary if you are going to use a grandfather provision. The reason is that you need some lag time to allow people to come into compliance with the draft's new requirements. Otherwise, you could potentially immediately prohibit a person from earning a livelihood as a physical therapist assistant. Please let me know whether the delayed effective date is okay.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Ron Hermes [rhermes@tds.net]
Sent: Tuesday, January 23, 2001 10:31
To: Mark Kunkel
Subject: PT drafting changes

Hi Mark-

Attached are the responses to the 14 issues you raised in the second draft of the PT practice act revisions. There are also a couple of minor additional changes.

When do you think draft 3 will be available?

If you have any questions, please don't hesitate to contact me.

Ron Hermes
Hilbert & Tenuta
WPTA Lobbyist

01/23/2001



HILBERT & TENUTA

TO: Mark Kunkel
FR: Ron Hermes – Lobbyist
WPTA
DATE: January 22, 2001
RE: Changes to LRB-0750/P2dn

The following are the responses to the 14 questions raised with draft 2 along with a few other changes. If you have any questions, please don't hesitate to contact me.

1. okay as drafted
2. 448.50 (4) (intro) should read "Physical therapy" includes each of the following: *-d-NOTE*
3. page 11 line 13 delete **direction and** and change to direct or general supervision.
Line 15 add "direct or" prior to "general supervision" ✓
4. no changes
5. okay
6. add 1 physical therapy assistant to the affiliated credentialing board *-d-NOTE*
7. delete 448.56 (1) and replace with: if a referral is received the physical therapist must follow rules promulgated by the PTACB regarding the relationship between the physical therapist and the referring health care provider (Mark, the intent is to ensure a continuity of care between the PT and the referring health care provider.)
8. okay
9. okay
10. okay
11. okay
12. okay
- ✓ 13. add to the grandfather provision: must pass a test given by the PTACB, must satisfy the arrest or conviction requirement, letters of recommendation from two licensed physical therapists
- ✓ 14. please change the effective date to 24 months

Additional items:

- ✓ 1. page 10 line 24 delete **physical therapy is contraindicated or that**
- ✓ 2. page 11 delete everything on lines 6 through 10 after the word *treats*. (there are already sufficient laws regulating the maintenance of health records)
- ✓ 3. page 11 line 19 delete **as widely as possible**
- ✓ 4. page 14 line 5 add or direct after *the*

By Friday,
2/2,
it at
all
possible

D-NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1

RM
NOT
RUN

Gen. Cat.

1 AN ACT *to repeal* 448.52 (3); *to renumber and amend* 448.50 (4), 448.54 (2) and
2 448.56 (1); *to amend* 48.981 (2), 146.81 (1) (dg), 146.997 (1) (d) 4., 155.01 (7),
3 252.14 (1) (ar) 4e., 448.51 (1), 448.51 (2) (a), 448.51 (2) (b), 448.52 (4), 448.54 (1),
4 448.54 (3), 448.55 (2), 448.57 (2) (b), 448.57 (2) (e), 448.57 (2) (f), 448.57 (2) (g)
5 and 450.10 (3) (a) 5.; *to repeal and recreate* 448.56 (1) (title); and *to create*
6 440.08 (2) (a) 57m., 448.50 (1m), 448.50 (3m), 448.50 (4) (a) to (d), 448.50 (5),
7 448.50 (6), 448.51 (1e), 448.51 (1m), 448.51 (1s), 448.527, 448.53 (1) (f), 448.535,
8 448.54 (2) (b), 448.55 (3), 448.56 (1) (b), 448.56 (4), 448.56 (5), 448.56 (6),
9 448.565, 448.567, 448.57 (2) (am), 448.57 (2) (bm), 448.57 (2) (fm), 448.57 (3),
10 448.57 (4) and 448.57 (5) of the statutes; **relating to:** licensing of physical
11 therapists and physical therapist assistants and granting rule-making
12 authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

1 INSERT 1A

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INSERT 2-1

SECTION 1. 48.981 (2) of the statutes is amended to read:

48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or mental health professional, social worker, marriage and family therapist, professional counselor, public assistance worker, including a financial and employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or counselor, mediator under s. 767.11, child care worker in a day care center or child caring institution, day care provider, alcohol or other drug abuse counselor, member of the treatment staff employed by or working under contract with a county department under s. 46.23, 51.42, or 51.437, physical therapist, physical therapist assistant, occupational therapist, dietitian, speech-language pathologist, audiologist, emergency medical technician, first responder or police or law enforcement officer having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or having reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under sub. (2m), report as provided in sub. (3). A court-appointed special advocate having reasonable cause to suspect that a child seen in the course of the court-appointed special advocate's activities under s. 48.236 (3) has been abused or neglected or having reason to believe that a child seen in the course of those activities has been threatened with abuse and neglect and that abuse or neglect of the child

1 will occur shall, except as provided in sub. (2m), report as provided in sub. (3). Any
2 other person, including an attorney, having reason to suspect that a child has been
3 abused or neglected or reason to believe that a child has been threatened with abuse
4 or neglect and that abuse or neglect of the child will occur may make such a report.
5 Any person, including an attorney, having reason to suspect that an unborn child has
6 been abused or reason to believe that an unborn child is at substantial risk of abuse
7 may report as provided in sub. (3). No person making a report under this subsection
8 may be discharged from employment for so doing.

9 **SECTION 2.** 146.81 (1) (dg) of the statutes is amended to read:

10 146.81 (1) (dg) A physical therapist or physical therapist assistant licensed
11 under subch. III of ch. 448.

12 **SECTION 3.** 146.997 (1) (d) 4. of the statutes is amended to read:

13 146.997 (1) (d) 4. A physician, podiatrist ~~or~~ physical therapist, or physical
14 therapist assistant licensed under ch. 448.

15 **SECTION 4.** 155.01 (7) of the statutes is amended to read:

16 155.01 (7) "Health care provider" means a nurse licensed or permitted under
17 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
18 physician, physician assistant, podiatrist, physical therapist, physical therapist
19 assistant, occupational therapist, or occupational therapy assistant licensed under
20 ch. 448, a person practicing Christian Science treatment, an optometrist licensed
21 under ch. 449, a psychologist licensed under ch. 455, a partnership thereof, a
22 corporation or limited liability company thereof that provides health care services,
23 an operational cooperative sickness care plan organized under ss. 185.981 to 185.985
24 that directly provides services through salaried employees in its own facility, or a
25 home health agency, as defined in s. 50.49 (1) (a).

1 **SECTION 5.** 252.14 (1) (ar) 4e. of the statutes is amended to read:

2 252.14 (1) (ar) 4e. A physical therapist or physical therapist assistant licensed
3 under subch. III of ch. 448.

4 **SECTION 6.** 440.08 (2) (a) 57m. of the statutes is created to read:

5 440.08 (2) (a) 57m. Physical therapist assistant: November 1 of each
6 odd-numbered year; \$44.

7 **SECTION 7.** 448.50 (1m) of the statutes is created to read:

8 448.50 (1m) "Business entity" has the meaning given in s. 452.01 (3j).

9 **SECTION 8.** 448.50 (3m) of the statutes is created to read:

10 448.50 (3m) "Physical therapist assistant" means an individual who holds a
11 license as a physical therapist assistant granted by the affiliated credentialing
12 board.

13 **SECTION 9.** 448.50 (4) of the statutes is renumbered 448.50 (4) (intro.) and
14 amended to read:

15 448.50 (4) (intro.) "Physical therapy" means ~~that branch or system of treating~~
16 ~~the sick which is limited to therapeutic exercises with or without assistive devices,~~
17 ~~and physical measures including heat and cold, air, water, light, sound, electricity~~
18 ~~and massage; and physical testing and evaluation. The use of roentgen rays and~~
19 ~~radium for any purpose, and the use of electricity for surgical purposes including~~
20 ~~cauterization, are not part of physical therapy. ^{any} ~~that includes each~~ of the following:~~

21 **SECTION 10.** 448.50 (4) (a) to (d) of the statutes are created to read:

22 448.50 (4) (a) Examining, evaluating, or testing individuals with mechanical,
23 physiological, or developmental impairments, functional limitations, disabilities, or
24 other movement-related or health conditions, in order to determine a diagnosis,
25 prognosis, or plan of therapeutic intervention or to assess the ongoing effects of

1 intervention. In this paragraph, “testing” means using standardized methods or
2 techniques for gathering data about a patient, including electrodiagnostic or
3 electrophysiologic tests.

4 (b) Alleviating impairments or functional limitations by instructing patients
5 or designing, implementing, or modifying therapeutic interventions.

6 (c) Reducing the risk of injury, impairment, functional limitation, or disability,
7 including by promoting or maintaining fitness, health, or quality of life in all age
8 populations.

9 (d) Engaging in administration, consultation, or research that is related to any
10 activity specified in pars. (a) to (c).

11 **SECTION 11.** 448.50 (5) of the statutes is created to read:

12 448.50 (5) “Sexual misconduct with a patient” means any of the following:

13 (a) Engaging in or soliciting a consensual or nonconsensual sexual relationship
14 with a patient.

15 (b) Making sexual advances toward, requesting sexual favors from, or engaging
16 in other verbal conduct or physical contact of a sexual nature with a patient.

17 (c) Intentionally viewing a completely or partially disrobed patient during the
18 course of treatment if the viewing is not related to diagnosis or treatment.

19 **SECTION 12.** 448.50 (6) of the statutes is created to read:

20 448.50 (6) “Therapeutic intervention” means the purposeful and skilled
21 interaction between a physical therapist, patient, and, if appropriate, individuals
22 involved in the patient’s care, using physical therapy procedures or techniques that
23 are intended to produce changes in the patient’s condition and that are consistent
24 with diagnosis and prognosis.

25 **SECTION 13.** 448.51 (1) of the statutes is amended to read:

1 448.51 (1) Except as provided in s. 448.52, no person may practice physical
2 therapy ~~or designate himself or herself as a physical therapist or use or assume the~~
3 title “physical therapist” or “physiotherapist” or “physical therapy technician” or
4 append to the person’s name the letters “P.T.,” “P.T.T.” or “R.P.T.” or any other title,
5 letters or designation which represents or may tend to represent the person as a
6 physical therapist unless the person is licensed as a physical therapist under this
7 subchapter.

8 **SECTION 14.** 448.51 (1e) of the statutes is created to read:

9 448.51 (1e) No person may designate himself or herself as a physical therapist
10 or use or assume the title “physical therapist,” “physiotherapist,” “physical therapy
11 technician,” “licensed physical therapist,” “registered physical therapist,” “master of
12 physical therapy,” “master of science in physical therapy,” or “doctorate in physical
13 therapy,” or append to the person’s name the letters “P.T.,” “P.T.T.,” “L.P.T.,” “R.P.T.,”
14 “M.P.T.,” “M.S.P.T.,” or “D.P.T.,” or any other title, letters, or designation which
15 represents or may tend to represent the person as a physical therapist, unless the
16 person is licensed as a physical therapist under this subchapter.

17 **SECTION 15.** 448.51 (1m) of the statutes is created to read:

18 448.51 (1m) No business entity may use, in connection with the name of the
19 business entity, a title specified in sub. (1e), append to the business entity’s name the
20 letters specified in sub. (1e), or advertise or represent that it provides physical
21 therapy services, including billing of services that are labeled as physical therapy,
22 unless the physical therapy services provided by the business entity are provided by
23 or under the direction of a physical therapist.

24 **SECTION 16.** 448.51 (1s) of the statutes is created to read:

1 448.51 (1s) No person may designate himself or herself as a physical therapist
2 assistant, use or assume the title “physical therapist assistant,” or append to the
3 person’s name the letters “P.T.A.” or any other title, letters, or designation that
4 represents or may tend to represent the person as a physical therapist assistant
5 unless the person is licensed as a physical therapist assistant under this subchapter.

6 **SECTION 17.** 448.51 (2) (a) of the statutes is amended to read:

7 448.51 (2) (a) In this subsection, “advertisement” includes advertisements that
8 appear on outdoor signs, in print or electronic media, and in material mailed to a
9 person other than a patient, client, or prospective patient or client who has requested
10 the material.

11 **SECTION 18.** 448.51 (2) (b) of the statutes is amended to read:

12 448.51 (2) (b) Except as provided in par. (c), no person may claim to render
13 physical therapy or physiotherapy services unless the person is licensed as a physical
14 therapist under this subchapter.

15 **SECTION 19.** 448.52 (3) of the statutes is repealed.

16 **SECTION 20.** 448.52 (4) of the statutes is amended to read:

17 448.52 (4) A physical therapy student ~~practicing assisting a physical therapist~~
18 in the practice of physical therapy or a physical therapist assistant student assisting
19 a physical therapist in performing physical therapy procedures and related tasks, if
20 the assistance is within the scope of the student’s education or training.

21 **SECTION 21.** 448.527 of the statutes is created to read:

22 **448.527 Code of ethics.** The affiliated credentialing board shall promulgate
23 rules establishing a code of ethics governing the professional conduct of physical
24 therapists and physical therapist assistants.

25 **SECTION 22.** 448.53 (1) (f) of the statutes is created to read:

1 448.53 (1) (f) If the person was educated at a physical therapy school that is not
2 in the United States, the person satisfies any additional requirements for
3 demonstrating competence to practice physical therapy that the affiliated
4 credentialing board may establish by rule.

5 **SECTION 23.** 448.535 of the statutes is created to read:

6 **448.535 Licensure of physical therapist assistants.** The affiliated
7 credentialing board shall grant a license as a physical therapist assistant to a person
8 who does all of the following:

9 (1) Submits an application for the license to the department on a form provided
10 by the department.

11 (2) Pays the fee specified in s. 440.05 (1).

12 (3) Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory
13 to the affiliated credentialing board that the applicant does not have an arrest or
14 conviction record.

15 (4) Submits evidence satisfactory to the affiliated credentialing board that the
16 applicant is a graduate of a physical therapist assistant educational program
17 accredited by an agency that is approved by the affiliated credentialing board.

18 (5) Passes an examination under s. 448.54.

19 **SECTION 24.** 448.54 (1) of the statutes is amended to read:

20 448.54 (1) The affiliated credentialing board shall conduct or arrange for
21 examinations for physical therapist and physical therapist assistant licensure at
22 least semiannually and at times and places determined by the affiliated
23 credentialing board.

24 **SECTION 25.** 448.54 (2) of the statutes is renumbered 448.54 (2) (a) and
25 amended to read:

1 448.54 (2) (a) Except as provided in sub. (3), examinations for physical
2 therapist licensure shall consist of written or oral tests, or both, requiring applicants
3 to demonstrate minimum competency in subjects substantially related to the
4 practice of physical therapy.

5 **SECTION 26.** 448.54 (2) (b) of the statutes is created to read:

6 448.54 (2) (b) Examinations for physical therapist assistant licensure shall
7 consist of written or oral tests, or both, requiring applicants to demonstrate
8 minimum competency in the technical application of physical therapy services.

9 **SECTION 27.** 448.54 (3) of the statutes is amended to read:

10 448.54 (3) The Notwithstanding s. 448.53 (1) (f), the affiliated credentialing
11 board may not require an applicant for physical therapist licensure to take an oral
12 examination or an examination to test proficiency in the English language for the
13 sole reason that the applicant was educated at a physical therapy school that is not
14 in the United States if the applicant establishes, to the satisfaction of the affiliated
15 credentialing board, that he or she satisfies the requirements under s. 448.53 (3).

16 **SECTION 28.** 448.55 (2) of the statutes is amended to read:

17 448.55 (2) The renewal dates for licenses granted under this subchapter, other
18 than temporary licenses granted under rules promulgated under s. 448.53 (2), are
19 specified under s. 440.08 (2) (a). Renewal applications shall be submitted to the
20 department on a form provided by the department and shall include the renewal fee
21 specified in s. 440.08 (2) (a) and proof of compliance with the requirements
22 established in any rules promulgated under sub. (3).

23 **SECTION 29.** 448.55 (3) of the statutes is created to read:

1 448.55 (3) The affiliated credentialing board shall promulgate rules that
2 require an applicant for renewal of a license to demonstrate continued competence
3 as a physical therapist or physical therapist assistant.

4 ~~SECTION 30. 448.56 (1) (title) of the statutes is repealed and recreated to read:~~

5 448.56 (1) (title) REFERRALS.

6 ~~SECTION 31. 448.56 (1) of the statutes is~~ ^{repealed.} ~~renumbered 448.56 (1) (a) and~~
7 ~~amended to read:~~

8 448.56 (1) (a) Except as provided in this subsection paragraph and s. 448.52,
9 a person may practice physical therapy only upon the written referral of a physician,
10 chiropractor, dentist, or podiatrist. Written referral is not required if a physical
11 therapist provides services in schools to children with disabilities, as defined in s.
12 115.76 (5), pursuant to rules promulgated by the department of public instruction;
13 provides services as part of a home health care agency; provides services to a patient
14 in a nursing home pursuant to the patient's plan of care; provides services related
15 to athletic activities, conditioning, or injury prevention; or provides services to an
16 individual for a previously diagnosed medical condition after informing the
17 individual's physician, chiropractor, dentist, or podiatrist who made the diagnosis.
18 The affiliated credentialing board may promulgate rules establishing additional
19 services that are excepted from the written referral requirements of this subsection
20 paragraph.

21 ~~SECTION 32. 448.56~~ ^(1m) ~~of the statutes is created to read:~~ ^(1m)

22 448.56 (2) (b) ^(a) A physical therapist shall refer a patient to an appropriate health
23 care practitioner if the physical therapist has reasonable cause to believe that
24 physical therapy is contraindicated or that symptoms or conditions are present that
25 require services beyond the scope of the practice of physical therapy.

CS REFERRALS.

INSERT 10-05

1 **SECTION 33.** 448.56 (4) of the statutes is created to read:

2 448.56 (4) **RESPONSIBILITY.** A physical therapist is responsible for managing all
3 aspects of the physical therapy care of each patient under his or her care.

4 **SECTION 34.** 448.56 (5) of the statutes is created to read:

5 448.56 (5) **PATIENT RECORDS.** A physical therapist shall create and maintain a
6 patient record for every patient the physical therapist examines or treats. A patient
7 record created and maintained under this subsection shall contain complete and
8 comprehensive health care information, as defined by the affiliated credentialing
9 board by rule. The affiliated credentialing board shall promulgate rules establishing
10 requirements and procedures for the retention of patient records.

11 **SECTION 35.** 448.56 (6) of the statutes is created to read:

12 448.56 (6) **PHYSICAL THERAPIST ASSISTANTS.** A physical therapist assistant may
13 assist in the practice of physical therapy only under the ~~direction and~~ ^{direct or} general
14 supervision of a physical therapist. The affiliated credentialing board shall
15 promulgate rules defining ^{direct or} "general supervision" for purposes of this subsection.

16 **SECTION 36.** 448.565 of the statutes is created to read:

17 **448.565 Complaints.** The affiliated credentialing board shall promulgate
18 rules establishing procedures and requirements for filing complaints against
19 licensees and shall publicize the procedures and requirements ~~as widely as possible.~~ ^{as widely as possible.}

20 **SECTION 37.** 448.567 of the statutes is created to read:

21 **448.567 Performance audits.** The affiliated credentialing board shall
22 promulgate rules that require the affiliated credentialing board on a periodic basis
23 to conduct performance self-audits of its activities under this subchapter.

24 **SECTION 38.** 448.57 (2) (am) of the statutes is created to read:

1 448.57 (2) (am) Interfered with an investigation or disciplinary proceeding by
2 using threats, harassment, or intentional misrepresentation of facts.

3 **SECTION 39.** 448.57 (2) (b) of the statutes is amended to read:

4 448.57 (2) (b) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an
5 offense the circumstances of which substantially relate to the practice of physical
6 therapy or assisting in the practice of physical therapy.

7 **SECTION 40.** 448.57 (2) (bm) of the statutes is created to read:

8 448.57 (2) (bm) Been adjudicated mentally incompetent by a court.

9 **SECTION 41.** 448.57 (2) (e) of the statutes is amended to read:

10 448.57 (2) (e) Subject to ss. 111.321, 111.322, and 111.34, practiced or assisted
11 in the practice of physical therapy while the applicant's or licensee's ability to
12 practice or assist was impaired by alcohol or other drugs.

13 **SECTION 42.** 448.57 (2) (f) of the statutes is amended to read:

14 448.57 (2) (f) Engaged in unprofessional or unethical conduct in violation of the
15 code of ethics established in the rules promulgated under s. 448.527.

16 **SECTION 43.** 448.57 (2) (fm) of the statutes is created to read:

17 448.57 (2) (fm) Engaged in sexual misconduct with a patient.

18 **SECTION 44.** 448.57 (2) (g) of the statutes is amended to read:

19 448.57 (2) (g) Engaged in conduct while practicing or assisting in the practice
20 of physical therapy which evidences a lack of knowledge or ability to apply
21 professional principles or skills.

22 **SECTION 45.** 448.57 (3) of the statutes is created to read:

23 448.57 (3) (a) A licensee may voluntarily surrender his or her license to the
24 affiliated credentialing board, which may refuse to accept the surrender if the
25 affiliated credentialing board has received allegations of unprofessional conduct

1 against the licensee. The affiliated credentialing board may negotiate stipulations
2 in consideration for accepting the surrender of licenses.

3 (b) The affiliated credentialing board may restore a license that has been
4 voluntarily surrendered under par. (a) on such terms and conditions as it considers
5 appropriate.

6 **SECTION 46.** 448.57 (4) of the statutes is created to read:

7 448.57 (4) The affiliated credentialing board shall prepare and disseminate to
8 the public an annual report that describes final disciplinary action taken against
9 licensees during the preceding year.

10 **SECTION 47.** 448.57 (5) of the statutes is created to read:

11 448.57 (5) The affiliated credentialing board may report final disciplinary
12 action taken against a licensee to any national database that includes information
13 about disciplinary action taken against health care professionals.

14 **SECTION 48.** 450.10 (3) (a) 5. of the statutes is amended to read:

15 450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical
16 therapist, physical therapist assistant, occupational therapist, or occupational
17 therapy assistant licensed under ch. 448.

18 **SECTION 49. Nonstatutory provisions.**

19 (1) ^{"KA"}PHYSICAL THERAPIST ASSISTANT LICENSES. Notwithstanding section 448.535
20 of the statutes, as created by this act, the physical therapist affiliated credentialing
21 board shall grant a physical therapist assistant license under section 448.535 of the
22 statutes, as created by this act, to an individual who, not later than the effective date
23 of this subsection, does all of the following:

24 (a) Pays the fee specified in section 440.05 (1) of the statutes.

*the first day of the
24th month beginning
after*

INSERT 14-1

1 (b) Provides evidence satisfactory to the physical therapist affiliated
2 credentialing board that, during at least 2 years of the 5-year period immediately
3 preceding the effective date of this paragraph, he or she was a physical therapist
4 assistant, as defined in section 448.52 (3), 1999 stats., assisting a physical therapist
5 in practice under the general supervision of a physical therapist as specified in the
6 rules promulgated under section 448.52 (3), 1999 stats.

SECTION 50. Effective date.

8 (1) This act takes effect on the first day of the ~~11th~~ month beginning after
9 publication.

(END)

INSERT
14-6INSERT
14-9

INSERT 1A:

This bill makes certain changes to the regulation of physical therapists and physical therapist assistants.

subsub → **Physical therapists** Under current law, with certain exceptions, a person may not practice physical therapy or designate that he or she is a physical therapist, unless the physical therapists affiliated credentialing board (board) has granted the person a physical therapist license. In addition, only a licensed physical therapist may use the title "physical therapist," "physiotherapist," or "physical therapy technician" or append to his or her name the letters "P. T.," "P. T. T.," or "R. P. T." Under this bill, the following additional titles may only be used by a licensed physical therapist: registered physical therapist, master of physical therapy, master of science in physical therapy, or doctorate in physical therapy. In addition, only a licensed physical therapist may append to his or her name the following additional letters: "M.P.T.," "M.S.P.T.," or "D.P.T."

AA The bill also prohibits a business from using any of the titles or letters specified under current law or under the bill unless the business provides physical therapy services that are provided by or under the direction of a licensed physical therapist. In addition, under the bill, a business may not advertise or represent that it provides physical therapy services or bill for services that are labeled as physical therapy, unless the physical therapy services are provided by or under the direction of a licensed physical therapist.

Current law defines "physical therapy" as the branch or system of treating the sick that is limited to therapeutic exercises with or without assistive devices, and physical measures including heat, cold, air, water, light, sound, electricity, and massage. However, "physical therapy" does not include the use of roentgen rays and radium for any purpose, and the use of electricity for surgical purposes, including cauterization. This bill replaces the foregoing definition with one that defines "physical therapy" to mean any of the following:

1. Examining, evaluating, or testing individuals with mechanical, physiological, or developmental impairments, functional limitations, disabilities, or other movement-related or health conditions, in order to determine a diagnosis, prognosis, or plan of therapeutic intervention or to assess the ongoing effects of intervention.

2. Alleviating impairments or functional limitations by instructing patients or designing, implementing, or modifying therapeutic interventions.

3. Reducing the risk of injury, impairment, functional limitation, or disability, including by promoting or maintaining fitness, health, or quality of life in all age populations.

4. Engaging in administration, consultation, or research that is related to any activity described above.

Current law also requires an applicant for a physical therapist license to satisfy certain requirements, including education and examination requirements. In addition, different requirements apply, depending on whether or not the applicant

graduated from a physical therapy school approved by the board. Under this bill, the board is allowed to promulgate rules that require an applicant who graduated from a foreign physical therapy school to satisfy additional requirements for demonstrating competence to practice physical therapy. However, as under current law, the board is not allowed to require an applicant to take an oral or English proficiency examination for the sole reason that the applicant graduated from a foreign physical therapy school, ~~provided that~~ the applicant satisfies the requirements under current law for an applicant who has not graduated from a school approved by the board. *if*

Also under current law, with certain exceptions, a licensed physical therapist may practice physical therapy only upon the written referral of a physician, chiropractor, dentist, or podiatrist. This bill eliminates this prohibition. However, the bill requires the board to promulgate rules establishing requirements that a physical therapist must satisfy if a health care practitioner refers a patient to the physical therapist. The purpose of the rules is to ensure continuity of care. Also, the bill requires a physical therapist to refer a patient to an appropriate health care practitioner if the physical therapist has reasonable cause to believe that symptoms or conditions are present that require services that are beyond the scope of practice of physical therapy.

The bill also provides that a physical therapist is responsible for managing all aspects of the physical therapy care of each patient under his or her care. In addition, the bill requires a physical therapist to create and maintain a patient record for every patient *that* the physical therapist examines or treats. *if*

sub sub **Physical therapist assistants.** Under current law, a "physical therapist assistant" is defined as a person who graduated from a physical therapy assistant associate degree program approved by the American Physical Therapy Association. No license from the board is required for a physical therapist assistant to assist a physical therapist in practice, if the assistance is under the general supervision of the physical therapist. The board is required to promulgate rules that define what constitutes "general supervision?" *has*

This bill eliminates the above provisions and prohibits a person from representing that he or she is a physical therapist assistant unless he or she is licensed by the board. In addition, the bill provides that only a licensed physical therapist assistant may append to his or her name the letters "P. T. A."

To qualify for a physical therapy assistant license under the bill, a person must satisfy certain requirements, including passing an examination for demonstrating minimum competency in the technical application of physical therapy services. Also, the person must not have an arrest or conviction, the circumstances of which substantially relate to the activities of a physical therapist assistant. In addition, a person must be a graduate of physical therapist assistant educational program that is accredited by an agency approved by the board. This last requirement does not apply to certain persons who apply for a license before the bill goes into effect, which is 24 months after publication of the bill. Instead, the last requirement is replaced by the following requirements: 1) the person must submit letters of recommendation from *two* licensed physical therapists who have personal knowledge

of the person's assistance of a physical therapist in practice; and 2) the person must show that, during at least ^{two} years of the ^{five} year period immediately preceding the publication of the bill, he or she was a physical therapist assistant, as defined under current law.

The bill allows a licensed physical therapist assistant to assist in the practice of physical therapy only under the direct or general supervision of a physical therapist. The board is required to promulgate rules that define what constitutes "direct or general supervision". In addition, the bill allows the board to take disciplinary action, including suspending or revoking a license, if a physical therapist assistant engages in prohibited conduct.

The bill also does each of the following: 1) makes current law regarding the preservation, destruction, and confidentiality of patient health care records applicable to records of a physical therapist assistant; 2) includes a physical therapist assistant as a health care provider for the requirements under current law for powers of attorney for health care and for the prohibition under current law on discrimination related to acquired immunodeficiency syndrome; 3) requires a physical therapist assistant, like other professionals under current law, to make certain reports regarding abused or neglected children; 4) provides to physical therapist assistants the same protection from discipline under current law that is available to other health care providers who make certain reports regarding violations of law or clinical or ethical standards by health care facilities, health care providers, or employees of such facilities or providers; and 5) provides the same immunity that is available under current law to other health care professionals who make certain reports regarding violations of laws applicable to pharmacists or controlled substances.

subsub → **Other changes** (A) The bill also makes other changes, including each of the following:

1. The bill creates new grounds for disciplinary action by the board against physical therapists and physical therapist assistants, including engaging in sexual misconduct with a patient.

2. The bill allows the board to accept the voluntary surrender of a license when the board receives allegations of unprofessional conduct.

3. The bill requires the board to prepare an annual report on disciplinary action.

4. The bill requires the board to promulgate rules that do each of the following: AA

a) establish a code of ethics for physical therapists and physical therapist assistants; b) establish procedures and requirements for filing complaints against physical therapists and physical therapist assistants; c) require the board to conduct periodic performance self-audits; and d) require a physical therapist or physical therapist assistant who applies to renew his or her license to demonstrate continued competence. Under current law, licenses must be renewed every ^{two} years.

5. Adds one physical therapist assistant member to the board. Under current law, the board has ^{three} physical therapist members and one public member.

INSERT 2-1:

15.406 (1) (am) One physical therapist assistant licensed under subch. III of
ch. 448. ✓

(b) The affiliated credentialing board shall promulgate rules establishing the requirements that a physical therapist must satisfy if a health care practitioner refers a patient to the physical therapist. The purpose of the rules shall be to ensure continuity of care between the physical therapist and the health care practitioner.

(b) Subject to sections 111.321, 111.322, and 111.335 of the statutes, submits evidence satisfactory to the physical therapists affiliated credentialing board that he or she does not have an arrest or conviction record.

#

(d) Passes an examination conducted or arranged by the physical therapists affiliated credentialing board, consisting of written or oral tests, or both, that requires the individual to demonstrate minimum competency in the technical application of physical therapy services.

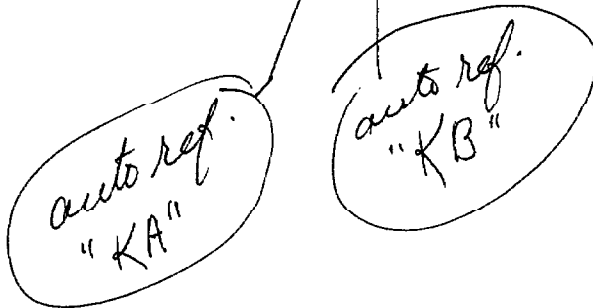
(e) Submits letters of recommendation from ~~two~~ ² physical therapists licensed under subchapter III of chapter 448 of the statutes who have personal knowledge of the individual's activities in assisting a physical therapist in practice.

(2) INITIAL PHYSICAL THERAPIST ASSISTANT MEMBER. Notwithstanding the length of term specified in section 15.406 (1) (intro.) of the statutes, the initial term of the physical therapist assistant member of the physical therapists affiliated credentialing board appointed under section 15.406 (1) (am) of the statutes, as created by this act, shall expire on July 1, 2007.

✓
INSERT 14-9:

SECTION 2. Effective dates. This act takes effect on the first day of the 24th month beginning after publication, except as follows:

[#]
(1) SECTION 49 (1) of this act takes effect on the day after publication.



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0750/1dn
MDK:.....

Senator Chvala:

This bill, which is based on instructions in a memo dated January 22, 2001, from Ron Hermes, is identical to the previous version, except for the following:

1. The definition of physical therapy is ~~defined~~ ^{had} to "mean" any of the enumerated practices, rather than ~~defined~~ ^{changed} to "include" them as requested in the memo. The bill shouldn't provide that the term includes something without stating what the term means. If I ^{have} drafted the definition as requested, the result would ^{have been} be confusing because one could argue that the bill defines only what physical therapy includes, not what it means, and that it might therefore include other things that aren't specified in the bill. Because the bill prohibits people from practicing physical therapy without a license, the bill should be clear about what constitutes physical therapy.

2. Proposed s. 448.56 (6) is revised as requested in item 3 of the memo.

3. The bill adds a physical therapist assistant member to the affiliated credentialing board. Consequently, the board has 5 members under the bill. Note that, because under s. 15.085 (4) (b), ^{3 1/3} stats, a two-thirds vote of the membership of the board is required to suspend or revoke a license, 4 out of 5 of the members must vote to suspend or revoke. This results because two-thirds of 5 is ~~3 and one third~~ ^{3 1/3}. Under current law, 3 out of 4 of the members must vote to suspend or revoke, which results because two-thirds of 4 is ~~2 and two thirds~~ ^{2 2/3}. I'm not sure this makes any difference to you, but I thought I should point it out. Also, depending on when the bill goes into effect, you may want to amend the expiration date of the term of the initial physical therapist assistant member of the affiliated credentialing board. Under the bill, the term expires on July 1, 2007, even if the term doesn't last 4 years. Depending on the bill's effective date, you might want a different expiration date that fits in better with the expiration dates of the other members.

4. Proposed s. 448.56 (1m) (b) [✓] is created to accomplish item 7 of the memo.

5. The grandfather provision is revised as requested in item 13 of the memo and the delayed effective date is revised as requested in item 14. However, note that the grandfather provision goes into effect immediately in order to allow people to apply for a license that is effective 2 years later. Also, the grandfather provision must go into effect immediately to give the affiliated credentialing board time to conduct the examinations.

6. The bill is revised to accomplish the additional items listed in the memo, except for the change to page 14, line 5 of the previous version. Under current law, a physical therapist assistant practices under the "general supervision" of a physical therapist, not the "direct or general supervision". Because the grandfather provision refers to what a physical therapist assistant did under current law, it isn't appropriate to refer to "direct or general supervision".

If you have any questions or redraft instructions, please contact me.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0750/1dn
MDK:kmg:jf

February 2, 2001

Senator Chvala:

This bill, which is based on instructions in a memo dated January 22, 2001, from Ron Hermes, is identical to the previous version, except for the following:

1. The definition of physical therapy is changed to "mean" any of the enumerated practices, rather than to "include" them as requested in the memo. The bill shouldn't provide that the term includes something without stating what the term means. If I had drafted the definition as requested, the result would have been confusing because one could have argued that the bill defines only what physical therapy includes, not what it means, and that it might therefore include other things that aren't specified in the bill. Because the bill prohibits people from practicing physical therapy without a license, the bill should be clear about what constitutes physical therapy.
2. Proposed s. 448.56 (6) is revised as requested in item 3 of the memo.
3. The bill adds a physical therapist assistant member to the affiliated credentialing board. Consequently, the board has 5 members under the bill. Note that, because under s. 15.085 (4) (b), stats., a two-thirds vote of the membership of the board is required to suspend or revoke a license, 4 out of 5 of the members must vote to suspend or revoke. This results because two-thirds of 5 is 3 1/3. Under current law, 3 out of 4 of the members must vote to suspend or revoke, which results because two-thirds of 4 is 2 2/3. I'm not sure this makes any difference to you, but I thought I should point it out. Also, depending on when the bill goes into effect, you may want to amend the expiration date of the term of the initial physical therapist assistant member of the affiliated credentialing board. Under the bill, the term expires on July 1, 2007, even if the term doesn't last 4 years. Depending on the bill's effective date, you might want a different expiration date that fits in better with the expiration dates of the other members.
4. Proposed s. 448.56 (1m) (b) is created to accomplish item 7 of the memo.
5. The grandfather provision is revised as requested in item 13 of the memo and the delayed effective date is revised as requested in item 14. However, note that the grandfather provision goes into effect immediately in order to allow people to apply for a license that is effective 2 years later. Also, the grandfather provision must go into effect immediately to give the affiliated credentialing board time to conduct the examinations.

6. The bill is revised to accomplish the additional items listed in the memo, except for the change to page 14, line 5, of the previous version. Under current law, a physical therapist assistant practices under the “general supervision” of a physical therapist, not the “direct or general supervision.” Because the grandfather provision refers to what a physical therapist assistant did under current law, it isn’t appropriate to refer to “direct or general supervision.”

If you have any questions or redraft instructions, please contact me.

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State of Wisconsin

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LEGAL FAX: (608) 264-6948

February 2, 2001

MEMORANDUM

To: Senator Chvala

From: Mark D. Kunkel, Legislative Attorney

Re: LRB-0750 Regulation of physical therapists and physical therapist assistants

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

____ JACKET FOR ASSEMBLY P JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0131 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

Kunkel, Mark

From: Ron Hermes [rhermes@tds.net]
Sent: Monday, June 04, 2001 5:48 PM
To: Mark Kunkel; Cindy McGinnis
Cc: Jim Tenuta; Michele Thorman; Bob
Subject: changes to LRB 0750/1

Hi Mark-

Attached is memo listing changes we are requesting on LRB 0750/1 relating to revisions of the physical therapy practice act. There may be one additional change that I will forward to you, but for now please make the attached changes. Please let me know your timeline on making the changes. Don't hesitate to contact me if you have any questions.

Ron Hermes
Hilbert & Tenuta
WPTA Lobbyist

06/05/2001



HILBERT & TENUTA

TO: Mark Kunkel
FR: Ron Hermes
DATE: June 4, 2001
RE: changes to PT bill draft LRB 0750/1

Listed below are changes to the physical therapy practice act revisions bill draft LRB 0750/1. Please feel free to contact me with any questions.

- **Section 11** delete "or" on line 23 of page 7
- **Section 11** add "physical therapy" between 'standardized' and 'methods' on line 25 of page 7
- **Section 11** delete everything after the word patient on lines 1 & 2 of page 8
- **Definitions** define *diagnosis* in Section 11 line 23 of page 7 to be "for purposes of this section, diagnosis means a label developed by a Physical Therapist indicating functional limitations, impairments and disabilities."
- **Section 31** strike section 31 and maintain current law as it relates to written referrals
- **Section 49** clarify that (d) line 18 of page 16 is a test to demonstrate knowledge of Wisconsin laws relating to Physical Therapy and that and individual would not be required to take the national licensure exam under this section
- **Section 49** add (f)? that under this section a person must be a graduate of an accredited physical therapy assistant program to obtain a license
- **Section 49** include a provision that stipulates the Physical Therapy Affiliated Credentialing Board must promulgate rules establishing reciprocity guidelines for Physical Therapy Assistants